

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

IN RE: : Chapter 11
:
KAISER ALUMINUM CORPORATION, : Bankruptcy Case No. 02-10429-JKF
a Delaware corporation, :
et al., :
:
Debtors. :
:
PUBLIC UTILITY DISTRICT NO. 1 :
OF CLARK COUNTY d/b/a CLARK :
PUBLIC UTILITIES, :
:
Plaintiff, :
v. : Civil Action No. 05-836-JJF
:
KAISER ALUMINUM CORPORATION, :
et al., :
:
Defendants. :
:
:

MEMORANDUM ORDER

Pending before the Court is the Request of Clark Public Utilities To Reopen Case And Renewal Of Motion To Withdraw The Reference (D.I. 27). In addressing Plaintiff's initial Motion To Withdraw The Reference, the Court held that "if Plaintiff appealed an adverse decision of the Bankruptcy Court, the Court would then choose either to decide the pending Motion To Withdraw The Reference or allow an appeal of the Bankruptcy Court's decision."¹ (D.I. 25) (emphasis added). The Court went on to

¹ The Court made similar remarks at the January 11, 2006 hearing:

If Clark is successful in front of Judge Fitzgerald I think the matter is going to

deny the initial Motion To Withdraw The Reference with leave to renew.

Since that time, Appellant filed an appeal of the Bankruptcy Court's Order (I) Granting Motion Of Debtor And Debtor-In-Possession kaiser Aluminum & Chemical Corporation For Summary Judgment Regarding Its Verified Motion For An Order Disallowing Claims Filed By Clark Public Utilities And (II) Disallowing Claims Filed By Clark Public Utilities. On March 29, 2007, the Court adjudicated Appellant's appeal and affirmed the Bankruptcy Court's Order. (See D.I. 11, 12, 13 in Public Utility District No. 1 of Clark County v. Kaiser Aluminum Corp., Civ. Act. No. 06-247-JJF). Because the Court has adjudicated the related appeal which raised similar, if not identical issues to those contained in the instant request to reopen and withdraw, the Court will

come to an end in the bankruptcy court possibly. If they are not it sounds like Clark is not bashful about litigation, so you'll probably be appealing to the district court.

When it comes to the district court by way of Clark's appeal, you'll indicate that this motion for withdraw[al] of [the] reference is related. And you'll be back in front of me, and then I'll have a better opportunity to decide which vehicle I want to ride in to decide your dispute. Whether I'm going to ride in the motion to withdraw reference or I'm going to ride on the appeal of the summary judgment decision by the bankruptcy judge.

(D.I. 23 at 42).

deny Plaintiff's request.

NOW THEREFORE, IT IS HEREBY ORDERED that the Request of Clark Public Utilities To Reopen Case And Renewal Of Motion To Withdraw The Reference (D.I. 27) is **DENIED**.

June 19, 2007

DATE


UNITED STATES DISTRICT JUDGE